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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,714	06/23/2003	Patrick Li	29250-000870/US	5753

7590 07/26/2007
HARNES, DICKEY & PIERCE, P.L.C.
P.O. Box 8910
Reston, VA 20195

EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2614

MAIL DATE	DELIVERY MODE
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07/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/600,714

Applicant(s)

LI ET AL.

Examiner

Creighton H. Smith

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 JUN '07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-7, 15, 16, 20-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 8-14, 17-19, 23, 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

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The finality of the Office action dated 14 MAR '07 is rescinded due to applicant's remarks filed on 14 JUN '07. Prosecution is re-opened due to discovery of new art.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 15, 16, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Immonen et al, U.S. Patent Publication 2002/0132611.

Immonen et al discloses in ¶-0059 that Quality of service profile can be adjusted for real-time traffic. This reads upon applicant's phrase in claim 1 of "adapting at least one target Quality of Service (QoS) characteristic in response to a load condition."

Regarding claim 2, it is only inherent that if Immonen et al are going to adjust/adapt the QoS for traffic, that first the traffic/load condition of the system must be determined and the QoS profile can be adjusted.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 21, 22, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Immonen et al in view Joshi, U.S. patent Publication #2204/0143842.

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Joshi describes other parameters/metrics to achieve QoS in their wireless system. Some of those metrics are the number of active users or total bandwidth use -¶0037. To have provided Joshi's teaching of using the total number of active users or total amount of bandwidth used in Immonen et al wireless system would have been obvious to a person having ordinary skill in the art, because with Joshi's disclosure in ¶0037 of achieving a certain QoS, the person possessing ordinary skill in the wireless telecom arts will readily realize that the elements of the secondary reference, Joshi, are easily combinable with Immonen et al.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Immonen et al in view of Joshi as applied to claim 2 above, and further in view of Achour et al, U.S. Patent Publication #2003/00600208.

Achour et al disclose in ¶0045 that a supplemental channel burst is based upon a predetermined threshold value. To have provided this in Immonen et al wireless system would have been obvious to a person having ordinary skill in the art.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Immonen et al in view of Joshi and Achour as applied to claim 2 above, and further in view of Mudigonda et al, U.S Patent Publication #2004/0176090.

Mudigonda et al disclose in ¶0022 a CDMA2000 network, and in ¶0051 a supplemental channel burst based on certain thresholds. To have provided Mudigonda et al teaching of a CDMA2000 network using SCH burst into Immonen et al would have been obvious to a person having ordinary skill in the art.

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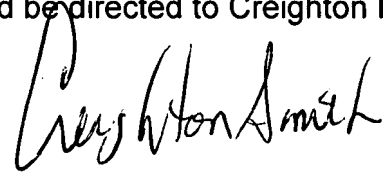
Claims 8-14, 17-19, 23, 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kakani et al, Lee et al, Anandakumar et al, Nagarajan et al.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

17 JUL '07

A handwritten signature in black ink, appearing to read "Creighton H. Smith". The signature is written in a cursive, flowing style.

Creighton H Smith
Primary Examiner
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